

ESTTA Tracking number: **ESTTA438186**

Filing date: **10/27/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|------------------------|---|
| Proceeding | 92051465 |
| Party | Defendant Edge Games, Inc., and Future Publishing, Ltd. |
| Correspondence Address | TIM LANGDELL EDGE GAMES INC 530 SOUTH LAKE AVENUE, #171 PASADENA, CA 91101 UNITED STATES uspto@edgegames.com |
| Submission | Other Motions/Papers |
| Filer's Name | Tim Langdell |
| Filer's e-mail | uspto@edgegames.com |
| Signature | /Tim Langdell/ |
| Date | 10/27/2011 |
| Attachments | ReplyToFuturesObjectionsReDocs53to56_102711.pdf (5 pages)(57233 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,559,342
For the Trademark THE EDGE
Issued January 13, 2009

In the Matter of Registration No. 3,381,826
For the Trademark GAMER'S EDGE
Issued February 12, 2008

In the Matter of Registration No. 3,105,816
For the Trademark EDGE
Issued June 20, 2006

In the Matter of Registration No. 2,251,584
For the Trademark CUTTING EDGE
Issued June 8, 1999

In the Matter of Registration No. 2,219,837
For the Trademark EDGE
Issued January 26, 1999

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|---|---|----------------------------------|
| EA DIGITAL ILLUSIONS CE AB, a Swedish Corporation; ELECTRONIC ARTS INC., a Delaware corporation, |) | EDGE GAMES INC'S |
| |) | REPLY TO FUTURE |
| |) | PUBLISHING'S |
| Petitioners, |) | OBJECTIONS TO |
| |) | DOCUMENT NUMBERS |
| |) | 53-56. |
| v. |) | |
| |) | |
| EDGE GAMES, INC., a California corporation; FUTURE PUBLISHING LTD, a UK corporation) |) | Cancellation No. 92051465 |
| |) | |
| Co-Defendants. |) | |
| _____ |) | |

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, Virginia 22313-1451

1. Co-Defendant Edge Games (“Edge”) only became aware of this filing by Co-Defendant Future Publishing (“Future”) today as a result of a routine inspection of the TTAB database in the course of checking for updates in these proceedings.

2. While Edge notes there is a Certificate of Service attached to Future’s filing, Edge did not receive any such service copy, either via US mail or via email or via any other means. Edge also notes this is a repeated pattern with Future, where they falsely accuse Edge of not copying them with documents and then fail to copy Edge with documents.

3. Edge notes that despite the Board previously strongly advising the parties to file documents electronically using ESTTA (footnote 1 to Document 48), yet again Future ignored the Board’s request and filed via mail. Further, even though Future’s attorney claims he asked that the parties exchange all filings electronically via email (see Exhibit A to Future’s filing), Future did not email a copy of this new filing to Edge even though in the document they allege they have a practice of emailing copies of filings to Edge at the time they are filed. In addition, Future do not claim to have sent a copy of this filing via email. Presumably, in this instance, Future hoped Edge would not notice the filing until after the deadline had passed for Edge to timely reply.

4. Respectfully, these observations go to the heart of why Future’s representative cannot fairly act as the point of contact for the Defendants since Edge could never be assured of promptly receiving any communication, or receiving vital communications at all if they were to be transmitted to Edge via Future.

Document Nos. 53 and 55.

5. First, Edge wished to apologize again for filing the incorrect version of its documents at 53 and 54 resulting in Edge having to re-file the correct version of the documents as 55 and 56 – which Edge did the moment Edge became aware it had made the error.

6. Second, Edge did not receive a service copy of Future’s Response/ Opposition brief, either via mail or via email. Despite the Certificate of Service in Future’s Response (Doc. No. 47), no such package arrived at Edge’s address. Since the

package would have contained over 100 pages (as indicated on Future's cover sheet of Doc. No. 47), and thus been sizable, it is not possible that the receipt of such a package could have been overlooked. Future refer to also sending a copy of their Response via email on August 19, 2010 and they attach a copy of that alleged email to their latest filing (Doc. No. 59, Footnote on page 1 and Exhibit A). However, Edge did not receive that email. Inspecting Exhibit A of Future's filing (Doc. No. 59) it is noted that there were allegedly ten attachments to that email that would have been extremely large indeed. It is thus quite likely that Edge's email system refused to process such a large email and that is the reason Edge failed to receive it. Such emails with excessively large attachments notoriously do not bounce back to their sender but are instead retained by the email system in the email equivalent of a 'dead letter' area. Regardless of the speculated reason for Edge not receiving the email, the fact remains Edge did not receive it.

7. In addition, inspecting the alleged email in Future's Exhibit A (Doc. No. 59) it appears that Mr. Phillip's assistant forwarded him the files at around 5:40pm on August 18, 2011 and then Mr. Phillips sought to forward them to Edge the following day at around 9:27am. While Edge can only speculate, given Future's prior habit of trying to serve Edge via email and not via mail (see the Board's statement regarding this in the footnote to Doc. No. 48), it is likely that Future failed to mail a service copy to Edge on August 18th and sought to instead serve on Edge solely via email on August 19th. Indeed, it would be rather unusual for Future to have sought to serve Edge both via mail and email (this would have been the only time Future did that).

8. Edge first became aware of Future's Response to Edge's Motion within 15 days of when Edge filed its Reply (Doc. No. 53, corrected at Doc. No. 55). Edge only became aware of Future's Response as a result of reviewing the docket in mid September. Consequently, given there was no proper service by Future, and given Edge did file its Reply within 15 days of becoming aware of Future's Response, either Future's Response should be not accepted due to lack of proper service, or Edge's Reply should be accepted as timely.

9. As to the length of Edge's Reply, Edge was not aware of the 10-page limit. Edge notes, though, that the document it filed at 53 (corrected at 55) was in fact a combination of TWO Replies – a Reply to Petitioner EA's Response Brief, and a Reply

to Co-Defendant Future's Response Brief. Thus technically Edge was entitled to a 10 page Reply for each of the two Responses. The fact Edge chose to combined the two Replies into a single document should, surely, permit Edge to have 20 pages for its combined Reply. Edge thus argues that its combined Reply in response to the two Response Briefs was conforming with Trademark Policy since Edge was permitted 10-pages per Reply. Since Edge's combined Reply to the two Response Briefs was 16 pages, it was thus within the 20 pages Edge was permitted for the total pages for both Replies.

10. Further in it's defense, Edge notes that Future's Response ran to over 100 pages (according to Future's own cover sheet to Doc. No. 47), and it would have been an unfair restriction on Edge in such a circumstance to limit Edge to only 10 pages in reply to both Future's and to EA's Responses. Should the Board deny Edge the right to a total of 20 pages for a Reply that responded to two Response Briefs, and should the Board not permit Edge's Reply to be 16 pages, Edge requests permission to file an Amended Reply that is within the 10 page limit, or to file two separate Replies (one in response to each Reply Brief, up to 10 pages each). In the alternate if neither of these proposals is acceptable to the Board, then Edge requests the Board still consider its Reply even if the Board's consideration is limited to just the first 10 pages of it.

Document Nos. 54 and 56

11. Edge was unaware that surreplies are not permitted, and asks that in this circumstance (should the Board agree to consider Future's Motion) the Board please permit this surreply. If it is within the Board's discretionary powers to accept the surreply, then Edge asks that the Board do so since Edge's surreply stands in large part as a necessary amendment to its original Opposition Brief incorporating key legal arguments and key facts that will be essential to the Board's fair and proper consideration of the motion in question, and which, since Edge is in pro per, such arguments and facts were unknown to Edge when it filed its original Opposition.

12. In addition and in the alternate, Edge objects to the validity of Future's motion in any event: as the Board noted in its communication (Doc. No. 48, Footnote 1), Future had no proper Certificate of Mailing included in its Motion and sought instead to serve Edge via email. It was pure chance that Edge happened to review the docket and

notice that Future had filed the motion. As the Board noted, service by email does not conform to Trademark Rules 2.190 and 2.195(d)(3). Edge thus asks that the Board not consider Future's Motion filed July 28, 2011 on the grounds that there was no proper service of that Motion on Edge.

Date: October 27, 2011

Respectfully submitted,

By: 

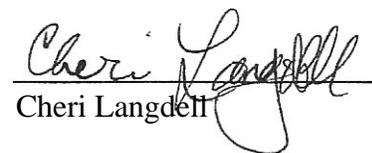
Dr. Tim Langdell, CEO
EDGE Games, Inc.
Registrant in *Pro Se*
530 South Lake Avenue, 171
Pasadena, CA 91101
Telephone: 626 449 4334
Facsimile: 626 844 4334
Email: ttab@edgegames.com

Certificate of Service

In accordance with the Trademark Rules of Practice, as amended, it is hereby certified that a true copy of the foregoing Edge Games' Reply to Future Publishing's Objections to Document Nos. 53-56 Filed by Future was served on the following Co-Defendant and counsel of record for the Petitioners, by depositing same in the U.S. Mail, first class postage prepaid, this 27th day of October, 2011:

Robert N. Phillips
Reed Smith LLP
101 Second Street, Suite 1800
San Francisco, CA 94105

Vineeta Gajwani
Electronic Arts Inc.
209 Redwood Shores Parkway
Redwood City, CA 94065


Cheri Langdell